

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 2810 of 2022

Sarat Sahoo

....

Petitioner

Mr. P.C. Jena, Advocate

Versus

State of Odisha

....

Opposite Party

Mr. D. Nayak, A.G.A.

CORAM:
JUSTICE SAVITRI RATHO

Order No.
02.

ORDER
08.12.2022
(Through hybrid mode)

1. This is the second journey of the petitioner to this Court under Section 439 of Cr.P.C. arising out of Khuntuni P.S. Case No.99 of 2020 which is now pending before the learned Addl. Sessions Judge, Athagarh in C.T. Case No. 367 of 2020 under Sections 147, 148, 294, 506, 302, 149 of the I.P.C. In BLAPL No.6311 of 2020, the prayer for bail of the petitioner had been rejected by this Court vide order dated 02.09.2021 while allowing the prayer of the co-accused, namely, Nata @ Kanhu Charan Sahoo and Papu @ Manoranjan Sahoo.

2. Mr. P.C. Jena, learned counsel for the petitioner submits that the petitioner is in custody since 25.07.2020 and in the meanwhile trial has commenced and out of 31 charge sheeted witnesses, 17 witnesses have been examined by the prosecution 16 of those witnesses have not supported the case of the prosecution. These 16 include P.W.10-Gayatri Rout, P.W.4-Gangadhar Rout, P.W.6-Bharat Rout, P.W.3-Jayanta Rout whose statements had been referred to in the earlier bail application. He further submits that co-accused Susanta Kumar Sahoo standing on same

footing as the petitioner has in the meanwhile been released on bail by order dated 24.11.2022 passed in BLAPL No.8304 of 2022 by this Court, copy of which has been filed by him in Court.

3. On 07.12.2022, the learned Addl. Govt. Advocate had been granted time to go through the deposition and the order passed in BLAPL No. 8304 of 2022 and to intimate if the petitioner stands on the same footing as Susanta Kumar Sahoo and whether any of the eye witnesses have implicated the petitioner in commission of the murder of Gayadhar Rout.

4. Mr. D. Nayak, learned Addl. Govt. Advocate submits that none of the eye witnesses, who have been examined during the trial, have supported the prosecution case and they have been declared hostile and the P.W. 2 Harihara Behera who has supported the prosecution case is not an eye witness to the occurrence.

5. Perused the order passed in BLAPL No. 8304 of 2022 pertaining to co-accused Susanta Kumar Sahoo, whose earlier application for bail had been rejected. Considering the fact that the eye witnesses examined during trial did not support the prosecution case, his prayer for bail has been allowed. The allegations against the petitioner and Susanta Kumar Sahoo are similar – that they have assaulted the deceased on his head causing injuries.

6. Perused the depositions of witnesses P.Ws. 3, 5, 10 and some other witnesses have been declared hostile as they did not support the prosecution case. P.Ws.1, 2, 11, 12 and 14 have not been declared hostile, but they are not eye-witnesses to the assault on the deceased.

7. Considering the submissions of the learned counsel for the respective parties, the nature of evidence against the petitioner and the

fact that a co-accused standing on similar footing has been released on bail by this Court and the period of detention of the petitioner in judicial custody, I am inclined to allow this application for bail.

8. Let the petitioner- Sarat Sahoo be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:-

i) He will not threaten or try to influence prosecution witnesses while on bail.

ii) He will not indulge in any criminal activity while on bail.

iii) He will appear on each date before the trial Court when the case is posted for trial.

9. The BLAPL is accordingly allowed.

10. Observations in this order have been made for the purpose of consideration of the bail application and should not influence the trial court in any manner.

Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

Sukanta